



Monday
April 26, 1999

Part XXIII

**Equal Employment
Opportunity
Commission**

Semiannual Regulatory Agenda

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Equal Employment Opportunity Commission (EEOC or

Commission) is publishing its semiannual regulatory agenda pursuant to Executive Order 12866, 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. chapter 6. The agenda lists all regulations that are scheduled for review or development during the next 12 months or that have been finalized since the publication of the last agenda.

FOR FURTHER INFORMATION CONTACT: Ellen J. Vargyas, Legal Counsel, Office of Legal Counsel, Equal Employment

Opportunity Commission, 1801 L Street NW., Washington, DC 20507; telephone (202) 663-7197.

SUPPLEMENTARY INFORMATION: The Commission has identified nine items for inclusion in this regulatory agenda.

Signed in Washington, DC, this 18th day of February 1999.

For the Commission.

Ida L. Castro,
Chairwoman.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3602	Federal Sector Equal Employment Opportunity	3046-AA57
3603	Waivers of Rights and Claims: Tender Back of Consideration	3046-AA68

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3604	Procedures for Complaints of Employment Discrimination by Previously Exempt State and Local Government Employees	3046-AA56
3605	Procedures for Collection of Debts by Administrative Offset	3046-AA65
3606	Federal Sector Equal Employment Opportunity Procedures	3046-AA66
3607	Availability of Records	3046-AA67
3608	Coordination of Functions; Memorandum of Understanding Between EEOC and Department of Labor, Office of Federal Contract Compliance Programs	3046-AA69

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3609	Procedures—The Age Discrimination in Employment Act	3046-AA54
3610	Disparate Impact Under the Age Discrimination in Employment Act (ADEA)	3046-AA64

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Proposed Rule Stage

3602. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-569, The Rehabilitation Act Amendments of 1992; 42 USC 2000e-16; 29 USC 633a; 29 USC 794a

CFR Citation: 29 CFR 1614

Legal Deadline: None

Abstract: The proposed amendments to this regulation implement the

Rehabilitation Act Amendments of 1992. Those amendments provide that the standards used to determine if title I of the Americans With Disabilities Act has been violated will apply to complaints of nonaffirmative action employment discrimination under section 501 of the Rehabilitation Act.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3046-AA57

EEOC

Proposed Rule Stage

3603. WAIVERS OF RIGHTS AND CLAIMS: TENDER BACK OF CONSIDERATION**Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 552; 29 USC 628; 42 USC 2000e; 42 USC 12101; 29 USC 206(d)**CFR Citation:** 29 CFR 1625**Legal Deadline:** None**Abstract:** Following the United States Supreme Court's decision in *Oubre v.*

Enterger Operations, Inc., 522 U.S. 422 (1998), the Commission intends to develop guidance on the status of consideration paid for a waiver of rights and claims under the laws it enforces.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Final Rule Stage

3604. PROCEDURES FOR COMPLAINTS OF EMPLOYMENT DISCRIMINATION BY PREVIOUSLY EXEMPT STATE AND LOCAL GOVERNMENT EMPLOYEES**Priority:** Substantive, Nonsignificant

Legal Authority: 2 USC 1220, sec 321 of Government Employee Rights Act of 1991; 42 USC 2000e et seq, title VII of the Civil Rights Act; 29 USC 621 et seq, Age Discrimination in Employment Act; 42 USC 12101 et seq, Americans with Disabilities Act

CFR Citation: 29 CFR 1603**Legal Deadline:** None

Abstract: Under title VII of the Civil Rights Act of 1964 and the ADEA, certain staff members of State and local elected officials were exempt from protection against employment discrimination. Section 321 of the Government Employee Rights Act of 1991 provides protection against employment discrimination on the basis of race, color, religion, sex, national origin, age, or disability with respect to the employment of persons who have been chosen or appointed by a State or local elected public official to serve on his or her personal staff, to serve the elected official on the policymaking level, or to serve as an immediate advisor with respect to the exercise of the constitutional or legal powers of the official's office.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/10/97	62 FR 17542
Interim Final Rule	06/09/97	
Comment Period End		
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 3046-AA56**3605. PROCEDURES FOR COLLECTION OF DEBTS BY ADMINISTRATIVE OFFSET****Priority:** Info./Admin./Other

Legal Authority: 5 USC 5514; 31 USC 3716; 31 USC 3720A; 5 CFR 550.1101

CFR Citation: 29 CFR 1650**Legal Deadline:** None

Abstract: As required by the Debt Collection Improvement Act of 1996, the Commission is issuing regulations for the collection of debts by administrative offset.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/17/97	62 FR 32685
Interim Final Rule	08/18/97	
Comment Period End		
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3046-AA65**3606. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY PROCEDURES****Priority:** Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2000e-16; 29 USC 206(d); 29 USC 633a; 29 USC 791; 29 USC 794a

CFR Citation: 29 CFR 1614**Legal Deadline:** None

Abstract: Commission staff has reviewed part 1614 to assess its effectiveness and conformity with National Performance Review principles. As a result, several changes are being proposed to streamline the process and eliminate unnecessary layers of review.

Timetable:

Action	Date	FR Cite
NPRM	02/20/98	63 FR 8594
NPRM Comment Period End	04/21/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal

EEOC

Final Rule Stage

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RIN: 3046-AA66

3607. AVAILABILITY OF RECORDS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; PL 105-231

CFR Citation: 29 CFR 1610

Legal Deadline: None

Abstract: The Commission is revising its Freedom of Information Act regulations to comply with the Electronic Freedom of Information Act Amendments of 1996, to implement a delegation of Regional Attorney's FOIA responsibilities, to update office addresses, and to correct typographical errors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/09/98	63 FR 1339
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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3608. COORDINATION OF FUNCTIONS; MEMORANDUM OF UNDERSTANDING BETWEEN EEOC AND DEPARTMENT OF LABOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2000e-12(a); 42 USC 2000e-14; 42 USC 2000e-4(g); EO 12067

CFR Citation: None

Legal Deadline: None

Abstract: The existing 1981 Memorandum of Understanding (MOU) between EEOC and OFCCP sets forth

complaint processing and information sharing procedures to coordinate enforcement under title VII and EO 11246. The changes contemplated for the MOU would authorize OFCCP to act as EEOC's agent to process and resolve the title VII component of dual-filed EO 11246/title VII complaints retained by OFCCP under existing procedures. The contemplated changes also would add new language about confidentiality.

Timetable:

Action	Date	FR Cite
Proposed Notice	12/14/98	63 FR 68764
Comment Period End	01/13/99	
Final Notice	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Long-Term Actions

3609. PROCEDURES—THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 628, sec 115, Civil Rights Act of 1991

CFR Citation: 29 CFR 1626

Legal Deadline: None

Abstract: Section 115 of the Civil Rights Act of 1991 deleted references to the Portal to Portal Act from the private suit provisions of the Age Discrimination in Employment Act (ADEA) and replaced them with a requirement that suit be filed no later than 90 days after termination of proceedings or dismissal of a charge by EEOC. Accordingly, section 1626.7(a) is being deleted and section 1626.15(b) is being revised because they were both based upon the Portal to Portal Act. New sections are being added concerning termination of EEOC

proceedings and the issuance of notices of the new 90-day limitation period.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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3610. DISPARATE IMPACT UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 628

CFR Citation: 29 CFR 1625.7 (Revision); 29 CFR 1625.23 (New)

Legal Deadline: None

Abstract: The Commission proposes to issue legislative regulations to reaffirm and clarify its long-standing interpretive rule regarding the availability of the disparate impact theory under the ADEA. The proposed rule also would set forth the nature and order of proof in such disparate impact cases.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

EEOC

Long-Term Actions

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